

### **REMARKS**

Claims 1 through 22 are pending in this application. Claims 1 and 16 have been amended to include that there is a “single” fastener which is “positioned at said first end and said opposing second end of said strap and completely within the perimeter of the strap.” This amendment is fully supported by the specification; therefore no new matter issue arises. The specification at paragraph 24 discloses “a strap 12 of length L and width W.” Figure 1, of the current application, depicts the fasteners 24A and 24B located fully within the perimeter of the strap defined by length L and width W.

#### **Claim Rejections under 35 U.S.C. § 102(e)**

The Examiner rejects Claims 1-10 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,440,159 to Edwards (hereinafter referred to as “Edwards”).

The Examiner characterizes Edwards as disclosing “a sling holder (10) for holding an object for an extended period of time against the skin, said sling holder comprising: a strap (comprising 20, 22, 24 and 32) having a first end (20) and an opposing second end (22), a fastener (64) for coupling said first end to said second end, and at least one pocket attachable (see element 16 in figures 1, 3 and 4) to said strap.”

Claim 1 as herein amended now specifies that there is a single fastener associated with the strap. In contrast, Edwards quite clearly has two fasteners in each embodiment, shown best in FIG. 1 where the crosshatched areas 64 and 120 are two distinct and separate fasteners. This distinguishes the Edwards reference from the claimed invention in substantial manner. The Edwards device is intended as a body wrap so the two large fastener areas 64 and 120 are essential to the ability to securely wrap the device around major body sections and includes short connecting means 26 and long connecting means 18 to adapt to different circumferences of large body sections and joints. By contrast the instant invention with its single fastening means is designed to simply hold the thermal pack in place adjacent to a desired body portion, not to wrap and secure the body portion.

In addition the strap 11B disclosed in the Edwards reference is entirely separate from the wrap structure of Edwards which has the pocket attached to it. The strap of Edwards has no pocket at all.

When that independent claim is found patentable, the claims dependent therefrom are patentable as well. Thus the Examiner’s alleged rejection of dependent claims 2-10 in view

of further teachings of Edwards is overcome when the independent claim is determined to be patentable. Such a determination is sincerely urged.

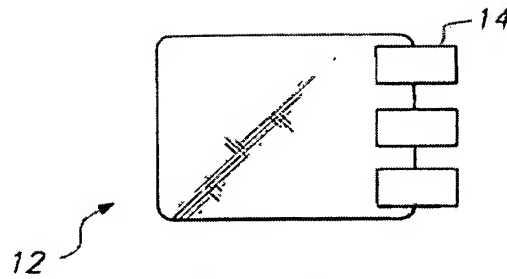
Claim Rejections under 35 U.S.C. § 102(b)

The Examiner rejects Claims 1-10 and 12-22 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,823,984 to Silverberg (hereinafter referred to as "Silverberg"). The Examiner also rejects Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Silverberg in view of U.S. Patent No. 5,069,208 to Noppel et al (hereinafter "Noppel").

For Claim 1 the Examiner asserts that "Silverberg discloses a sling holder (10) for holding an object for an extended period of time against the skin, said sling holder comprising: a strap (12); having a first end and an opposing second end; a fastener (14) for coupling said first end to said second end; and at least one pocket attachable (20) to said strap, see col. 1-4 and figures 1-7, particularly figures 2, 5 and 6.

It is the fastener 14 of Silverberg that differs markedly from the currently claimed instant invention. The Silverberg reference discloses an expandable wrap including one or more panels with the entire interior and/or exterior surfaces of fabric loop type material. The panel includes three fasteners stitched to or removably attached to an edge of the panel. Each of the fasteners includes a surface having hook type fasteners fastened to the loop type fabric on the inner or outer surface of an adjoining panel edge. The fasteners extend over the edge of the panel for securing two adjoining panels. The wrap includes a pocket for holding thermo packs or weights. The pocket includes a lower flap and an upper flap, with the upper flap extending over the lower flap thereby forming a pocket. An outer surface of the pocket is preferably constructed of vinyl and includes hook type fasteners for securing the pocket to the loop type interior surface of the wrap.

Unlike the Silverberg reference, the fasteners of the present invention as currently amended herein in independent claims 1 and 16 are located fully within the perimeter of the wrap. By contrast, the Silverberg fasteners 14 extend "over the edge" of the wrap or panel 12 (see Silverberg FIG. 1 reproduced for convenience below). Each representation of the fasteners in other embodiments of Silverberg are similarly extending beyond the body of the wrap.



**FIG. 1**

Thus, the invention as now claimed distinguishes from the Silverberg disclosure in that the fasteners are within the perimeter of the strap and overlap the adjacent complimentary fastener portion to securely bind the ends together. In Claim 1 it is a single strap and in Claim 16 and 17 it can be two or more strap portions fastened together. This fastener structure of this invention promotes a more secure hold when using the hook-and-loop type fastener due to the potentially larger overlapped areas of fastening.

**Rejection of dependent claims 2-10, 12-22 under 35 U.S.C. § 102(b)**

Claims 2-10, 12-15, which depend from Claim 1 and Claims 17-22, which depend from Claim 16, were rejected by the Examiner as allegedly unpatentable also based on Silverberg. When the underlying independent claim is found patentable, the claims dependent therefrom are patentable as well. As set forth in detail above in regard to the 102(b) rejection, Silverberg fails to provide for a fastener means that is wholly within the perimeter of the strap, thus it fails to teach all aspects of the claimed invention. Reconsideration of the rejections of dependent claims and allowance of these claims is sincerely urged. Accordingly the Examiner is urged to reconsider all of these rejections and withdraw them.

**Claim Rejections under 35 USC § 103(a)**

Claim 11 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Silverberg (U.S. Patent No. 5,823,984) in view of Noppel et al. (U.S. Patent No. 5,069,208). The Examiner's stated position is :

“Regarding claim 11, Silverberg discloses the claimed invention except for a temperature indicator on at least one of said strap and said pocket. Noppel et al. disclose a thermal bag/pack containing a heat exchange agent and teach the providing the bag/pack with “a film of a sensitive material capable of indicating whether the temperature of transformation has been reached”, see col. 4, lines 60-64. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Silverberg, as taught by Noppel et al., to provide at least one of the strap or pocket with “a film of a sensitive material capable of indicating whether the temperature of transformation has been reached.”

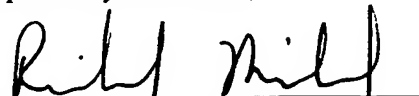
As set forth in detail above in regard to the 102(b) rejection, Silverberg fails to provide for a fastener means that is wholly within the perimeter of the strap, thus it fails to teach all aspects of the claimed invention and accordingly fails as the primary reference in the 103(a) rejection. Noppel et al. is unsuitable to fill in the deficiency of Silverberg regarding the fastener. Therefore, the obviousness rejection should be withdrawn upon reconsideration, and claim 11 then stands allowable.

In view of the foregoing, the Examiner is respectfully requested to reconsider all pending rejections and withdraw all rejections against all currently pending claims. Such favorable action is hereby respectfully requested.

To expedite prosecution of this application to allowance, the Examiner is invited to call the undersigned attorney to discuss any issues relating to this application.

A check in the amount of \$60.00 is enclosed for the filing of a one-month extension of time. If it is determined that additional fees are required to assure continued pendency of the application, please charge our Deposit Account No. 503342.

Respectfully submitted,

By 

Richard R. Michaud  
Registration No. 40,088  
Attorney for Applicants

Michaud-Duffy Group LLP  
306 Industrial Park Road, Suite 206  
Middletown, CT 06457-1532  
(860) 632-7200